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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/876,151 | 06/08/2001 | Yun-Suk Choi | 1567.1009 | 6719 |

21171 7590 03/31/2003

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EXAMINER

WEINER, LAURA S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1745

DATE MAILED: 03/31/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,151

Applicant(s)

CHOI, YUN-SUK

Examiner

Laura S Weiner

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5,6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-12,16 and 17 is/are allowed.
- 6) ☒ Claim(s) 5,6,13-15,18 and 19 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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DETAILED ACTION

Response to Amendment

1. Examiner acknowledges the cancellation of claims 1,4 and 7 cited in Amendment A dated 2-19-03. Claims 2-3, 5-6, 8-20 have been examined on their merits.

Response to Arguments

2. Applicant's arguments with respect to claims 5, 6, 13-15, 18-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 is rejected because it does not further limit claim 17 from which the claim depends from because claim 17 because both claims are claiming the same limitations.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

4. Claims 5, 6, 13-15, 19 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yang et al. (6,350,543).

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Yang et al. teaches in column 13, lines 22-67, that the electrochemical cell comprised a positive electrode, a negative electrode and separator. The positive electrode comprises a quaternary composite material mixed with a binder such as polvinylidene fluoride and a conductive material. The negative electrodes include lithium material. Various non-aqueous organic solvent and lithium salt can be used to create an electrolyte composition. Non-aqueous organic solvents include one or more of propylene carbonate, ethylene carbonate, etc. Yang et al. teaches in column 15, lines 1-15, that the cell was flooded in a 1M LiPF₆ PC and EC solution.

In the event any differences can be shown for the lithium negative electrode product of the product by process limitation, as opposed to the product taught by Yang et al., such differences would have been obvious to one of ordinary skill in the art as a routine modification of the product in the absence of a showing of unexpected results. *In re Thrope* 227 USPQ 964; (*Fed. Cir.* 1985).

With respect to the product by process limitation, the determination of patentability is based upon the product itself not upon the method of its production. *In re Thrope* 227 USPQ 964; *In re Brown* 173 USPQ 685; *In re Bridgeford* 149 USPQ 55; *In re Wertheim* 191 USPQ 90. Any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the Examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the Applicants to establish that their product is patentably distinct. *In re Brown* 173 USPQ 685 and *In re Fessmann* 180 USPQ 324.

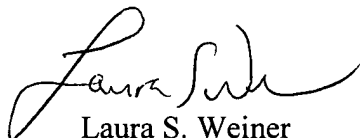
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Allowable Subject Matter

5. Claims 10, 8-9, 11-12, 16-17 are allowed.
6. Claims 2-3, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner works a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (703) 308-2383. The fax phone number for non-after finals is 703-872-9310 and the fax phone number for after-finals is 703-872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Laura S. Weiner
Primary Examiner
Art Unit 1745
March 25, 2003